CHILD & FAMILY SERVICES
REVIEW BOARD

CUSTODY
REVIEW BOARD

Annual Report

2009 – 2010

Child and Family Services Review Board
Custody Review Board

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August 2010

The Honourable Laurel Broten
Minister of Children and Youth Services
56 Wellesley St. W, 14th Floor
Toronto, ON M5S 2S3

Dear Minister Broten:

It is my pleasure to present to you the Child and Family Services Review Board and Custody Review Board's annual report for the period of April 1, 2009 to March 31, 2010.

I would like to take this opportunity to thank your office and the office of the Deputy Minister for your support and assistance.

Regards,

Suzanne Gilbert

Suzanne Gilbert
Chair

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Message from the Chair

I am pleased to present the 2009-2010 Annual Report of the Child and Family Services Review Board (CFSRB) and Custody Review Board (CRB)[1]. This year proved to be another challenging and exciting year beginning with the 30th anniversary of the Child and Family Services Review Board. It was in 1979 that the Government of Ontario established the Children Services Review Board under the *Children's Residential Services Act*. When this *Act* was replaced by the *Child and Family Services Act (CFSA)* in 1984, the Children Services Review Board became known as the Child and Family Services Review Board. Initially, the Board had a narrow mandate to review specific issues related to children's placements, licensing of children's residences and disclosure of adoption information. Over the past 30 years, the Board has gradually evolved into a larger tribunal with a significantly expanded mandate that now includes reviewing decisions made by school boards and children's aid societies.

The 2009-2010 fiscal year marks my third full year as the Chair of the Board. During this time, the Board has undergone many significant administrative and adjudicative changes to deal with a more complex and much larger volume of work resulting from amendments to the *CFSA* in 2006. In this fiscal year, the Board continued to see significant growth with a sharp increase in the number of CRB applications along with a rise in the number of applications related to decisions made by children's aid societies.

I am proud of the Board's accomplishments and I am confident that the Board is now in the final stages of building a solid foundation for an efficient administrative tribunal. Most notably, the Board's settlement facilitation program is now fully implemented and has proven to be a success in assisting parties to resolve complaints and concerns in a more meaningful way. Improvements were also made to Board processes and procedures for Emergency Secure Treatment, Review of Residential Placements and CRB applications.

The Board also began renovating its space at its current location in Toronto and is in the process of building its first on-site hearing room and settlement facilitation conference room. This will undoubtedly improve the adjudicative environment for people living in the Greater Toronto Area.

In conclusion, I want to thank Board members who believe in what they do and who make a difference in the lives of children, youth and families. Their dedication and enthusiasm is to be commended. I also want to thank the staff for their hard work and for supporting all areas of the Board's work. Without staff, cases would not be managed from beginning to end, proceedings and accommodations would not be scheduled, and last but not least there would be no one to provide the support and guidance that people require when they are proceeding through the Board application and hearing processes. The Board's success in achieving a high standard of adjudicative excellence would not be possible without a committed team of Board members and staff.

Suzanne Gilbert
Chair

[1] CFSRB and CRB are referred to collectively and individually as the Board.

This Year's Highlights

INCREASE IN VOLUME OF WORK

In this fiscal year, the Board experienced a 27% increase in the overall number of applications. This was mainly the result of a larger number of CRB applications. In fact, CRB applications increased by 145% and this can be attributed to the reorganization of youth justice facilities in the province. A number of facilities were closed and opened in 2009-2010 resulting in youth requesting a review of their transfer to various facilities throughout the province. In addition, the increase in CRB applications may have been the result of youth having a better understanding of the Board's mandate. Communication materials that clearly explained the Board's mandate were provided to all youth justice facilities in Ontario.

Additionally, the number of applications related to the review of decisions of children's aid societies increased by 9%. Despite the overall increase in the volume of work, emergency secure treatment applications decreased by approximately 9%. There was also a 64% decrease in the number of school board expulsion appeals.

The following chart provides a summary of Board applications for the last two fiscal years.

Applications	2008-2009	2009-2010
Child and Family Services Review Board		
Review of certain CAS decisions and complaints	214	233
Review of Emergency Secure Treatment admissions	34	30
Review of Residential Placement Advisory Committee recommendations	4	3
Appeals of School Board Expulsion decisions	25	9
Review of a Director's Refusal to Approve a Person to Adopt or to Approve an Intercountry Adoption Placement	1	0
Custody Review Board		
Review of Decision of a Provincial Director Regarding the Placement of a Youth in Custody	65	159
Total	**343**	**434**

The overall number of applications that proceeded to a hearing slightly decreased from 78 in 2008-2009 to 66 in 2009-2010. This decrease is mainly due to a reduction in hearings for section 61 and school board expulsion applications. The duration of hearings decreased from one to three days in this fiscal year compared to one to six days in the previous two fiscal years.

It is apparent now that there would have been a significant increase in the number of hearings without the implementation of the settlement facilitation program in July 2008. In fact, applications have risen by 36% since the 2007-2008 fiscal year when the settlement facilitation program was not in place, while the number of hearings have decreased by 26% during the same period.

Similarly, with the implementation of the settlement facilitation program in July 2008, there has been a reduction in the number of jurisdictional challenges. Since the 2007-2008 fiscal year, jurisdictional challenges by children's aid societies have decreased by approximately 20%.

FIRST FULL YEAR OF THE SETTLEMENT FACILITATION PROGRAM

As part of the Board's hearing process for complaints made under sections 68 and 68.1 of the *CFSA*, a settlement facilitation program (mediation) was implemented in July 2008. This program provides an opportunity for applicants and children's aid societies to participate in settlement discussions at the pre-hearing stage. Settlement facilitation is a voluntary process used to assist the parties to arrive at a mutually agreed upon outcome. This model is consistent with alternative dispute resolution models used in Ontario's administrative tribunals and courts to settle matters in a non-adversarial manner.

This program was fully implemented in 2009-2010. Although the mentoring phase for a specific group of Board members is now complete, training is ongoing and included an additional day of training in June and October 2009 to further refine and improve the program.

Based on an analysis of a full year of the settlement facilitation program, the Board has found that parties are actively participating and the vast majority of applications are settled. For further information, please see the analysis of section 68 applications on page 21.

Evaluation of the settlement facilitation program also included a qualitative analysis of surveys and settlement agreements. Terms of settlement agreements were not restricted to remedies that can be ordered by the Board following a hearing. However, all terms were within the Board's jurisdiction to deal with the applicants' right to be heard by the children's aid society and to be provided with an explanation for a society's decision that affects the applicant's interests. Interestingly, this analysis revealed that the Board's settlement facilitation program is addressing many of the issues that were identified in the 2008-2009 Ombudsman Ontario Annual Report relating to complaints about children's aid societies for which the Ombudsman's office has no authority to investigate. In fact, settlement agreement terms addressed similar complaints to those listed in the Ombudsman's Annual Report, including CAS refusal to investigate allegations of abuse, apprehension of children, the care of children in CAS custody or supervision, and services provided to children in care. Terms also addressed ongoing services provided to children and families, complaints about caseworkers and access issues/arrangements between children and parents.

Feedback from surveys showed that participants overwhelmingly found the settlement facilitation process to be a positive experience in helping to resolve many concerns and issues while ensuring the interests of the child were given precedence. Surveys also demonstrated that settlement facilitation provided an opportunity for applicants to be heard in an unbiased and non-adversarial setting. The success of the settlement facilitation program can be best summed up by the following quote from a participant's survey:

"They [the facilitators] were informative, unbiased and proactive in finding common ground between the parties. Their focus always remained on solving issues and finding ways to help both parties seek a mutual conclusion. I am very appreciative for the job they did today. I am leaving today feeling much more hopeful in systems designed to help and protect children than I had when I arrived."

REVIEW OF THE *CFSA*

The Board had the opportunity to meet with the Ministry to discuss potential improvements to the *CFSA* with respect to the Board's mandate.

The Ministry will be releasing a report on the 2010 review of the *CFSA* in April 2010. The Board is hopeful that this report will address aspects of the Board's mandate.

ONGOING BOARD TRAINING

In order to decrease costs, there was only one general training session for all Board members in 2009-2010. Staff was invited for part of this training session. In total, three days of general training were organized in May 2009. Training topics included information about children's aid society adoption processes, child protection investigation processes and standards, child protection matters before the court, the role of the Office of the Children's Lawyer (OCL) and legal updates. Board members were also trained on newly developed rules of procedure and processes for emergency secure treatment applications. Training was also provided on dealing with people exhibiting challenging behaviours. This annual general meeting concluded with an open session for Board members to discuss issues and concerns that were experienced while conducting pre-hearings, settlement facilitation conferences and hearings.

STRONGER PARTNERSHIPS

The Board continued to work collaboratively with the OCL. The OCL represented children before the Board under sections 61, 124 and 144 of the CFSA. While the OCL has a legal mandate to represent children at emergency secure treatment hearings under s.124, the OCL is not legally required to represent children at other Board hearings.

Over the course of this fiscal year, the Board has developed a positive partnership with the Office of the Provincial Advocate for Children and Youth (Child Advocate's Office). In June 2009, the Board conducted a training session for staff of the Child Advocate's Office on the Board's mandate. As a result of this partnership, the Board is informing youth of their right to contact a Child Advocate when requesting a CRB application. The Child Advocate's Office has also been informing more youth about their right to apply to the CRB.

ON-SITE HEARINGS AND SETTLEMENT FACILITATION CONFERENCES

The Board has had ongoing discussions with MCYS about the need for adequate space to conduct on-site proceedings. In February 2010, the Board obtained approval from MCYS to acquire more space to build a hearing room and settlement facilitation room at

its current location. Construction of this project began in March 2010. All renovations are expected to be completed by June 2010. Upon completion of this project, all applications from the Greater Toronto Area that proceed to a hearing or a settlement facilitation conference will be held at the Board office. The Board will no longer be required to hold these hearings and settlement facilitation conferences in hotel meeting rooms and other public facilities. It is believed that this will provide a better environment to conduct proceedings and will be a cost-saving measure over the long term. The Board looks forward to beginning on-site proceedings in July 2010.

MINISTRY REVIEW OF BOARD'S OPERATIONS

Over the past few years, the Board has been asking MCYS to provide more permanency in its staffing. In order to respond to the Board's request, the Ministry hired a consulting firm to determine the resources that are required to stabilize the Board's financial and human resources. This process included reviewing the Board's organizational structure and staffing model as well as interviewing all staff and several Board members. The Board's staffing and financial resources were also compared to other administrative tribunals in Ontario. In its final report, the consulting firm recognized the success and accomplishments of the Board noting that with some minor adjustments related to position responsibilities and structure, the Board's proposed structure and request for permanent positions were reasonable.

The Board implemented the consultant's recommendation to transition to a single manager model and made some minor changes to staff positions in this fiscal year. The Board's response to the consultants' final report was sent to the Ministry in November 2009.

The consultant's final report also recognized that the Board has been successful in being responsive to its clients and that it provides prompt management of applications and inquiries. This confirms that the Board's decision to hire a highly skilled and knowledgeable workforce to manage the complexity and volume of applications was the right decision. The report further noted that providing the necessary support to self-represented applicants presented additional challenges for staff and Board members.

NEW GOVERNANCE AND ACCOUNTABILITY ACT

In December 2009, the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* was enacted. The purpose of this new Act is to ensure that adjudicative tribunals remain independent in their decision-making while ensuring they are accountable, transparent and efficient in their operations. Tribunals subject to this legislation will be required to develop both public accountability documents as well as governance accountability documents. Public accountability documents include a mandate and mission statement, a public consultation policy, a service standard policy, ethics plan and member accountability framework. Governance accountability documents include a memorandum of understanding, business plan and annual report.

The Board has already completed many of the required public accountability and governance accountability documents. A Memorandum of Understanding was signed by the Minister of MCYS and the Chair in this fiscal year. A Letter of Understanding is currently in the final stages of approval by the Ministry of Education (MEDU). A three-year business plan was also presented to MCYS in June 2008. This plan will not be finalized and approved until the Board receives a budget that accurately reflects its financial needs. Additionally,

the Board completes annual reports and has adopted a code of conduct. A member accountability framework is also in place. This framework includes a structured interview process, position descriptions and core competencies for Board members.

The *Act* also gives authority to the Lieutenant Governor in Council to proceed with Tribunal Clustering. In this fiscal year, there were no discussions in regard to clustering the Board with other Tribunals.

CASE MANAGEMENT SYSTEM UPGRADE

The Board continued to upgrade its automated case management system to a web-based version in 2009-2010. This advanced system will further refine the Board's business functions such as, intake processing, case queries, scheduling of pre-hearings, settlement facilitation conferences and hearings, and document management. It is anticipated that the second phase of the case management system will be operational in August 2010.

BOARD MEMBERSHIP

Board membership included one full-time Chair, two full-time Vice-Chairs and 21 part-time Board members over the course of this fiscal year for a total of 24 members. All Board members are also appointed to the Custody Review Board.

The Board continued to ensure that panels were comprised of Board members who have professional experience related to the type of application being heard. Panels often included a combination of lawyers and professionals from the social work, mental health or education fields.

Who We Are

In 2009-2010, the Board was comprised of 24 Board members and was supported by a team of 11 administrative staff. Due to the expiry of appointments, the actual number of Board members was reduced to 22 by the end of the fiscal year, which was consistent with the number of Board members in 2008-2009. In order to address an increase in the volume of work, the Board will be recommending the appointment of additional Board members in 2010-2011.

As a result of reorganization, administrative staff decreased from 11 to 10 positions over the course of the fiscal year.

Board members come from a variety of backgrounds in the legal, social services, mental health and education fields. The Board's membership is diverse, with representation from many different communities. Bilingual Board members are available to conduct hearings in both official languages.

The *CFSA* has set out the following requirements to become a Board member:

- A degree, diploma or certificate granted by a university or other post-secondary institution authorized to grant such credentials in Ontario or equivalent qualifications, as determined by the Chair of the Board, and at least one year's experience working in or volunteering in children's services or social services; or
- At least five years' experience working in or volunteering in children's services or social services.

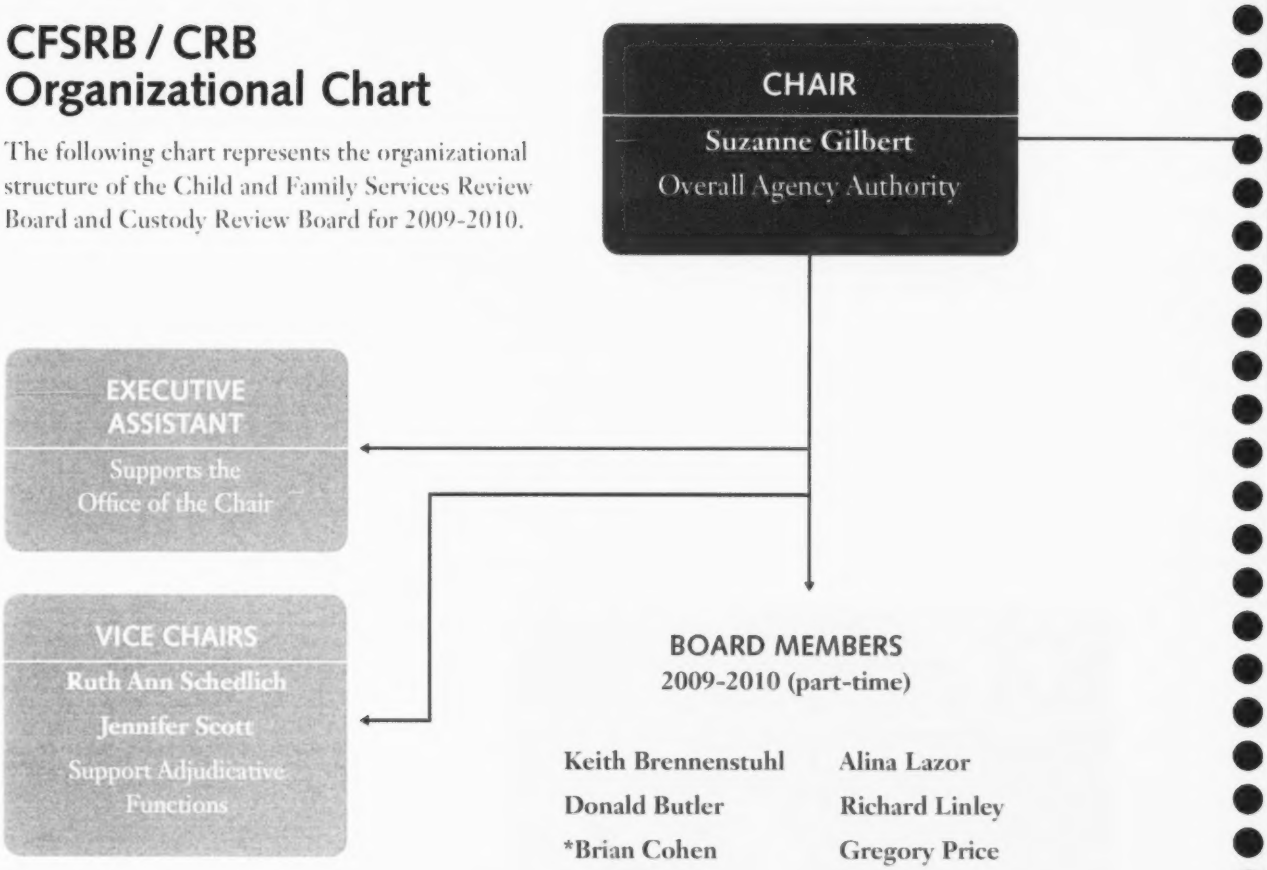
In order to become a Board member, potential candidates submit an application to the Public Appointments Secretariat. The selection process for both Boards includes a review of applications to determine if candidates meet the requirements, followed by structured interviews.

The Chair recommends candidates to the Minister of MCYS for consideration. Board members are appointed by the Lieutenant Governor in Council for terms of two, three and five years.

In order to meet the Board's needs, Board members are required to have extensive knowledge and experience in either the legal, social services, mental health or education fields. With the implementation of the settlement facilitation program, mediation skills and experience are also an advantage.

CFSRB / CRB Organizational Chart

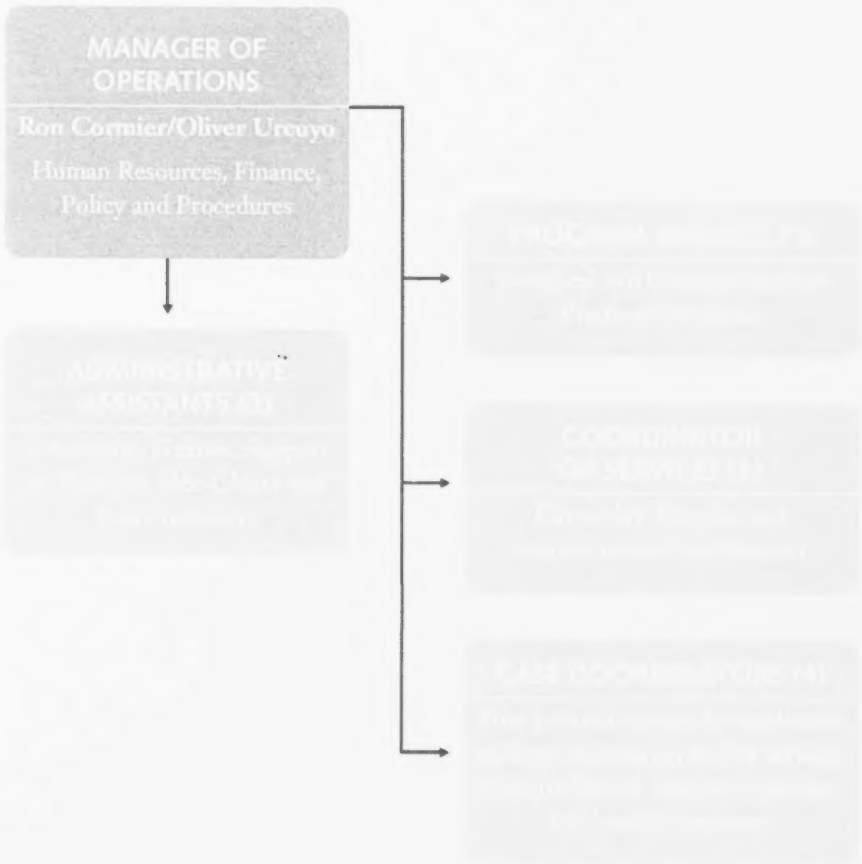
The following chart represents the organizational structure of the Child and Family Services Review Board and Custody Review Board for 2009-2010.



BOARD MEMBERS
2009-2010 (part-time)

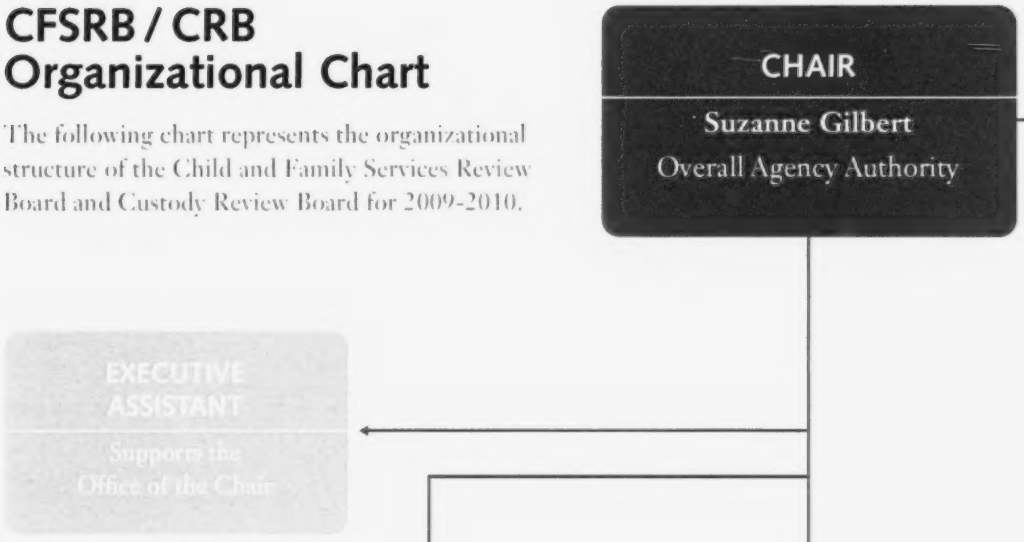
Keith Brennenstuhl
Donald Butler
*Brian Cohen
Celia Denov
Denyse Diaz
Patrick Doran
John Gates
Heather Gibbs
Gail Gonda
Aida Graff
*David Griffiths
Heather Hunter
Lorna King
Alina Lazor
Richard Linley
Gregory Price
Nycole Roy
Frances Sanderson
Sheena Scott
Wendell White
Mary Wong

*Board members who left the Board in this fiscal year.


MANAGER OF OPERATIONS
Ron Cormier/Oliver Urcuyo
Human Resources, Finance, Policy and Procedures

CFSRB / CRB Organizational Chart

The following chart represents the organizational structure of the Child and Family Services Review Board and Custody Review Board for 2009-2010.



BOARD MEMBERS

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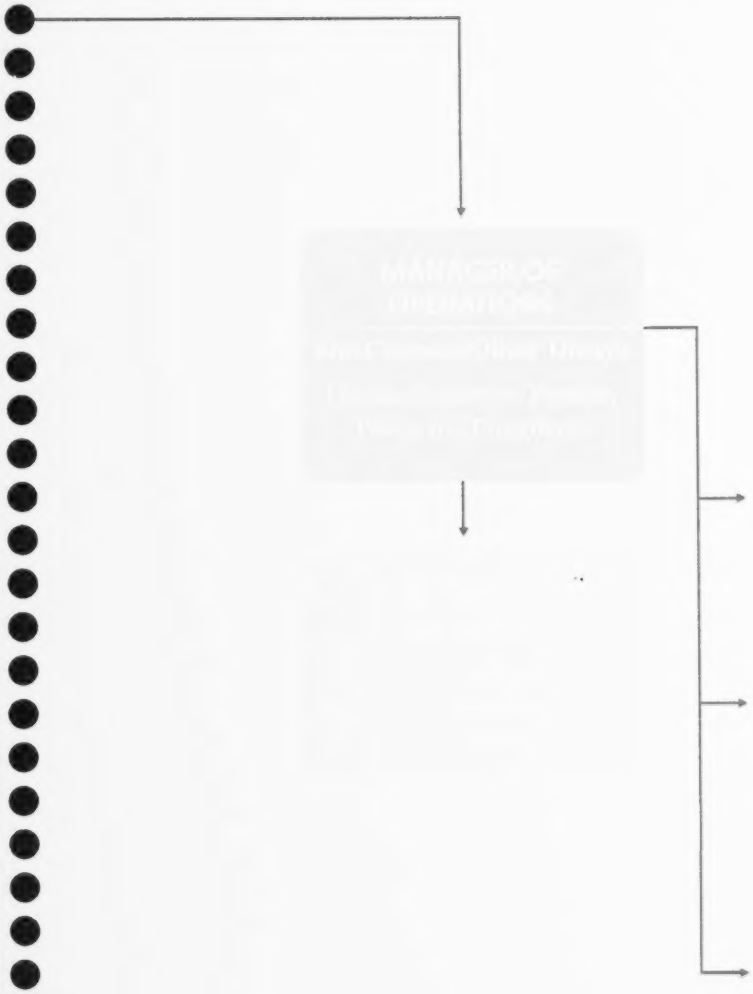

The Child and Family Services Review Board

The Board's legislative responsibilities continue to be wide and varied as reflected by the different pieces of legislation summarized below:

Residential placements of children in care pursuant to s.36;

A children's aid society decision to remove a Crown ward, where the child has resided continuously with the foster parent for two years or more pursuant to s.61;

Certain client complaints related to children's aid societies pursuant to s.68 and s.68.1;

Emergency admission of a child to a secure treatment program pursuant to s.124;

A Director's decision to refuse to approve a proposed adoption placement, or to impose a term or condition on an approval pursuant to s.142;

A decision of a children's aid society to refuse an application to adopt a particular child or a decision of a society or licensee to remove a child from an adoption placement pursuant to s.144.

School Board expulsion decisions pursuant to s.311.7.

A Director's refusal to approve a person as eligible and suitable to adopt for the purpose of an intercountry adoption or the attachment of conditions to a Director's approval pursuant to s.5;

Director's refusal to approve a proposed intercountry adoption or the attachment of conditions to a Director's approval pursuant to s.6.

Custody Review Board

The Custody Review Board hears applications and makes recommendations to Provincial Directors who make decisions with respect to youth in custody regarding the following:

Pursuant to s.97(1):

A particular placement where a young person is being held or to which the young person has been transferred;

A Provincial Director's refusal to authorize the young person's temporary release or reintegration leave;

The young person's transfer from a place of open custody to a place of secure custody.

Due to amendments to the *Ministry of Correctional Services Act (MCSA)* that came into force on April 1, 2009, all CRB reviews are now only conducted under the *CFSA*.

Statistics, Analysis & Comments

Child and Family Services Review Board

The following information provides the Board's statistics for each type of application, as well as analysis and comments. It is noted that some applications are finalized over two fiscal years and this may result in statistics that do not consistently balance. Please refer to the appendix to find a description of each type of application.

SECTION 61 OF THE CFSA (Removal of a Crown ward)

The number of applications increased from 12 in the last fiscal year to 16 in 2009-2010.

STATISTICS

Section 61	
Applications Received	16
Eligible Applications	11
Ineligible Applications	3
Pre-Hearings	11
Hearings	2
Decisions Issued	1
Applications Withdrawn	9
File Closed due to No Contact	1

ANALYSIS

- Two oral hearings were conducted over three days.
- In the one decision issued, the children's aid society's decision was confirmed.
- Eight applications were withdrawn prior to a hearing and one application was withdrawn at the hearing. The Board was informed that the matter was settled in one application and in three applications the children's aid society decided to change their decision in regard to the proposed removal of the child(ren).
- One application was closed due to lack of contact with the applicant.
- Three applications involved Native children and the Band exercised its statutory right to participate as a party in one application.
- Children were represented by the OCL in six applications.

COMMENTS

While the number of section 61 applications increased in this fiscal year, the number of hearings decreased from six in 2008-2009 to two in 2009-2010. There was also a corresponding decrease in the number of hearing days from 15 to three in this fiscal year.

As a result of an increase in the number of applications as well as a Board decision to conduct pre-hearings within six days of receiving a section 61 application, the number of pre-hearings increased from four to 11 in 2009-2010.

In the last fiscal year, the Board began conducting pre-hearing teleconferences for all section 61 applications. The practice proved to be beneficial and not only allowed the Board to be better prepared for hearings, but also assisted in resolving matters outside of the hearing process. In some instances, when children were represented by a lawyer and children's wishes were voiced, the applications were resolved without the matter proceeding to a hearing.

Nine of the 11 eligible section 61 applications received in this fiscal year pertained to situations where the society removed children from the foster home due to alleged risk of harm.

As it was determined last year that the Crown ward review monitors compliance with regulations under section 61, the Ministry will be in a better position to verify if children's aid societies are complying with the legal requirement to provide written notice of proposed removals to foster parents and informing them of their right to have this decision reviewed by the CFSRB.

SECTION 144 OF THE CFSA (Refusal to Adopt)

The number of applications increased from eight in the last fiscal year to 14 in 2009-2010.

STATISTICS

Section 144	
Applications Received	14
Eligible Applications	12
Ineligible Applications	1
Pre-Hearings	11
Hearings	9
Decisions Issued	5
Applications Withdrawn	6

ANALYSIS

- Nine oral hearings were conducted over 17 hearing days.
- Of the five decisions issued, the children's aid society's decision was confirmed in one application and rescinded in four applications.
- Of the six applications that were withdrawn, two applications were withdrawn at a hearing and three applications were withdrawn after a pre-hearing due to a settlement between the parties.
- The OCL represented a child in one application.

COMMENTS

There was an increase in the number of section 144 applications and hearings in 2009-2010. The number of hearings increased from three in 2008-2009 to nine in this fiscal year. There was also an increase in the number of hearing days from five to 17 in 2009-2010. As a result of a Board decision to conduct pre-hearings within six days of receiving a section 144 application, the number of pre-hearings increased from six to 11.

Conducting pre-hearings proved to be beneficial for the following reasons: the Board obtained a clear understanding of the issues to be addressed at a hearing; issues related to disclosure were clarified; and the number of days required for a hearing was accurately determined. There were no adjournments to continue hearings at a later date, which reduced the amount of time to finalize an application.

Consistent with the past two fiscal years, all of the applications challenged decisions made by children's aid societies. There were no applications requesting a review of decisions made by licensees. All applications involved the refusal of an adoption application for a particular child.

SECTION 68 OF THE CFSA (Complaints Against a Children's Aid Society)

The number of applications increased from 194 in the last fiscal year to 203 in 2009-2010.

STATISTICS

Section 68	
Applications Received	203
Eligible Applications	172
Ineligible Applications	21
Decisions to Proceed to Oral Hearing	157
Written Reviews	16
Pre-Hearings (includes settlement facilitation conferences)	131
Hearings	37
Decisions Issued	36
Applications Withdrawn	20
Files Closed due to No Contact	19

ANALYSIS

- Thirty-seven applications proceeded to a hearing in this fiscal year and 49 hearing days were completed. This included applications that were received in 2009-2010 as well as applications received in the last fiscal year, but heard in this fiscal year.
- The Board's jurisdiction was challenged in 20 (54%) of the 37 applications that proceeded to a hearing. After a hearing, the Board determined that it had jurisdiction in 16 (80%) of the 20 applications.
- Thirty-six decisions were issued in 2009-2010. Eight decisions were issued on jurisdiction only. In three cases, the application was dismissed. Orders were made in favour of applicants in 22 cases. In three cases, the application was granted or settled and no order was required.
- Of the 20 applications that were withdrawn, eight applications were withdrawn due to the parties resolving the matter themselves. Applications were withdrawn at various stages of the process.
- Nineteen applications were closed due to no contact between the applicant and the Board. In eight applications, applicants did not respond to the Board when further information was requested to either determine if an application was eligible for review or to proceed to an oral hearing.
- In summary, 96 applications were settled after either a pre-hearing or settlement facilitation conference was conducted. Thirty-six reasons for decisions on jurisdiction and/or merits as well as 15 written reviews and 139 pre-hearing reports were issued in this fiscal year.

SETTLEMENT FACILITATION

- One hundred and twenty-six applications were scheduled for settlement facilitation. Settlement facilitation actually occurred in 115 applications. As nine applications will be finalized in 2010-2011, a settlement agreement was reached in 88 of the 106 applications (83%).
- Parties reached a full agreement in 22 applications. This means that the file was closed at the pre-hearing stage and no further actions were required, as the applicants were satisfied with the explanations given during settlement discussions.
- Sixty-six applications proceeded to the implementation stage. This occurred when parties needed additional time, usually about 20 days, to implement the terms of the settlement agreement.
- Of the 66 applications that proceeded to the implementation stage, compliance issues were raised in 13 applications (20%). Two of the 13 applications were not settled and moved on to a hearing as a determination was made that the terms of the settlement agreement were not complied with.
- Fifty-five of the 66 applications were closed as settled.
- In 27 applications (23%) a settlement agreement was not reached and the application proceeded to an oral hearing in 18 of these cases in this fiscal year.

COMMENTS

While there was a slight increase in the number of section 68 applications in this fiscal year, the number of applications that proceeded to a hearing remained stable at 37 in 2009-2010 compared to 39 in 2008-2009. Again this year, the relatively low number of hearings is due to the settlement facilitation program.

The number of ineligible applications decreased from approximately 20% to 10% in this fiscal year. As written communication is difficult for some applicants, the Board, for the most part, made eligibility decisions based on the information provided in the application and requested less additional information from applicants. The Board found that requesting applicants to provide additional information in writing may have discouraged some of them from proceeding further with their application. As a result of requesting less written information from applicants, there were fewer ineligible applications in 2009-2010.

When an application reached the hearing stage, the Board's jurisdiction was challenged in 54% of applications compared to 56% of applications in 2008-2009. Children's aid societies challenged the Board's jurisdiction primarily on the ground that the subject matter of the complaint was before the court. Since implementing the settlement facilitation program, jurisdictional challenges at hearings have decreased by approximately 20%.

Again this year, children's aid societies and applicants were active participants in the settlement facilitation process and were satisfied with the outcome. The settlement facilitation program has helped to finalize applications in a more timely manner. However, if an application proceeds to a hearing after a determination of non-compliance with the terms of the settlement agreement, the time for finalizing applications is lengthened.

The number of applications that were a direct complaint to the Board increased from 92% in 2008-2009 to 96% in 2009-2010. Very few applicants requested a review of a decision made by a children's aid society's Internal Complaint Review Panel (ICRP). The Board does not have information to assess the reasons for the very low number of applications to review a society's decision following an ICRP.

The reasons for dismissing applications at the written review stage were mainly that the subject matter of the complaint was before or decided by the Court; the applicant did not seek or receive a service from a children's aid society; the applicant was not a parent within the meaning of the Act, and as such, had no right to be heard. Written reviews were only completed when the facts were clear and there was no need for an oral hearing.

Finally, almost all applicants were self-represented and children's aid societies were represented by counsel. Consequently, staff were required to spend a great deal of time assisting applicants through Board processes. Self-represented applicants also require assistance from Board members to ensure their full participation in the hearing process. Specific information about the Board and its hearing process is being prepared for self-represented applicants. It is hoped that this information will enable self-represented applicants to have a better understanding of the Board's mandate and hearing process. It is anticipated that this information will be finalized and provided to self-represented applicants in the next fiscal year.

The overall number of cases that were closed due to no contact was reduced from 29 in 2008-2009 to 19 in 2009-2010. As the Board recognized that it may be difficult for many applicants to communicate in a written format, the Board increased its level of telephone contact with applicants and relied on less written correspondence when further information was required to proceed with an application. This procedure is in keeping with the need for Boards and Tribunals to adequately address literacy issues.

SECTION 5 & 6 OF THE INTERCOUNTRY ADOPTION ACT, 1998 (Refusal to Adopt Outside of Canada)

STATISTICS

Section 5 & 6	
Applications Received	0

SECTION 311.7 OF THE EDUCATION ACT (School Board Expulsion Appeal)

The number of school board expulsion applications decreased from 25 in 2008-2009 to nine in 2009-2010.

STATISTICS

Section 311.7	
Applications Received	9
Ineligible Applications	2
Pre-Hearings	7
Hearings	3
Decisions Issued	5
Applications Withdrawn	4
No Contact	0

ANALYSIS

- Three hearings were held over six hearing days.
- The Board confirmed the school board's decision in one application and rescinded the school board's decision in four applications.
- Of the four applications that were withdrawn, three applications were withdrawn due to a settlement between the parties. In all of these situations, a settlement occurred after a pre-hearing conference was held.

COMMENTS

There was a significant decrease in the number of applications in 2009-2010 as well as a corresponding decrease in the number of hearings from 13 in 2008-2009 to three in this fiscal year. The reasons for this decrease are unclear. As a result of a Board decision to conduct pre-hearings within six days of receiving a school board expulsion application, the number of pre-hearings only decreased from eight to seven in 2009-2010.

The number of school board expulsions in Ontario for this fiscal year was unavailable at the time of this report. When this information is available, a comparative analysis will be made between the overall number of school board expulsions and the number of Board applications.

In one case, the Board's jurisdiction to conduct a *de novo* (new) hearing and its final decision were judicially reviewed. The Court ruled that the Board has the authority to conduct a new hearing in order to provide a fair process and decision. The Court also upheld the Board's decision to quash the school board's expulsion decision, reinstate the youth to his/her school and quash the youth's record of expulsion.

SECTION 124 OF THE CFSA (Secure Treatment Application)

The number of emergency secure treatment applications decreased from 34 in 2008-2009 to 30 in 2009-2010.

STATISTICS

Section 124	
Applications Received	30
Hearings	13
Decisions Issued	13
Applications Withdrawn	17

ANALYSIS

- Of the 13 decisions that were issued, the Board denied the child's request for release in five applications and granted the child's request for release in eight applications.

Erratum

Page 23:
Title under Section 124 of the CFSA should read (Emergency Secure Treatment Application)

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ANALYSIS

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COMMENTS

There are three emergency secure treatment facilities in Ontario. Consistent with last year, the vast majority of applications were from children placed at Youthdale Treatment Centre.

Withdrawn applications continue to represent approximately one half of the files. An application is often withdrawn at a late stage in the process and after a considerable amount of work was done in very short timelines.

A committee of Board members developed Rules of Procedure and revised processes for emergency secure treatment applications, which were presented at the Board training in May 2009. They were fully implemented in this fiscal year and were provided to stakeholders.

SECTION 36 OF THE CFSA (Review of a Residential Placement)

The number of applications related to residential placements decreased from four in 2008-2009 to three in 2009-2010.

STATISTICS

Section 36	
Applications Received	3
Ineligible Applications	1
Pre-Hearings	1
Hearings	2
Decisions Issued	2

ANALYSIS

- The Board did not grant the child's request for transfer in the applications that proceeded to a hearing.
- One application involved a Native child and the Band exercised its statutory right to participate as a party in this application.
- In one application that proceeded to a hearing, the child was supported by the Child Advocate's office.

COMMENTS

Again this year, the Board received a very low number of applications when compared to the number of children in care.

Rules of Procedures were developed and implemented in this fiscal year. The Board also provided detailed information about its processes and procedures for applications for a review of a residential placement on its website.

Custody Review Board

The CRB received 65 applications in 2008-2009, compared to 159 applications received in 2009-2010.

STATISTICS

Custody Review Board	
Applications Received	159
Hearings	0
No Jurisdiction	42
Applications Withdrawn/Resolved	42
Recommendations Issued	72

ANALYSIS

- The Board did not have or lost jurisdiction in 42 applications. The Board did not have jurisdiction to review an application or to proceed further with an application as a result of youth being transferred to another facility during the course of a review.
- Forty-two applications were withdrawn during the review process.

- Of the 72 recommendations issued, the Board confirmed the Provincial Director's decision in 33 applications and made other recommendations in 39 applications.
- Five applications will be finalized in the 2010-2011 fiscal year.

COMMENTS

Over the past year, the Board has seen a dramatic rise in the number of CRB applications. This increase is in large part the result of system-wide implications surrounding the opening and operations of Roy McMurtry Youth Centre. Prior to the reorganization of secure youth justice facilities, the Board received on average five applications per month. With both the closure of secure youth justice facilities along with the opening of the Roy McMurty Youth Centre in May 2009, the overall average number of applications increased from five to 13 per month in this fiscal year.

In anticipation of the opening of the Roy McMurtry Youth Centre, the youth detention unit at the Hamilton-Wentworth Detention Centre was closed in March 2009. This closure resulted in young persons being moved to existing youth centres throughout the province. As a consequence, the monthly average of five applications doubled. Most of the applications received by the Board involved requests by youth to be returned to their home jurisdiction. In several cases, the Board recommended a return to the Hamilton area.

With the opening of the Roy McMurtry Youth Centre in May 2009, the number of applications to the Board continued to increase and peaked at 17 in the month of July. The Board saw a corresponding increase in the number of applications whenever there was a disruption at Roy McMurtry Youth Centre. These applications mainly involved concerns about safety issues and lack of programming. The Board made recommendations to transfer youth to other facilities when safety issues were confirmed.

Additionally, there were also situations where Roy McMurtry Youth Centre considered it necessary to transfer local youth to other facilities for staffing reasons. In some cases, the Board made recommendations to return youth to Roy McMurtry Youth Centre or the Greater Toronto Area.

There were few applications requesting transfers between open facilities and most of the applications related to issues and concerns in secure facilities. In general, the transferring of youth between various secure facilities appears to have occurred on the basis of facility closures and openings, labour disruptions, the location of court appearances, and disruptive behaviours of individual youth. In several instances, the Probation Officer who was responsible for case management was not consulted or made aware of the transfer.

The *CFSA* specifically states that the decision to transfer youth between secure youth treatment centres shall be made by the Provincial Director or designate. The decision to transfer youth between secure youth centres was generally delegated to facility administrators. For the most part, the facility administrator and not the Provincial Director was responsible for making the decision about the youth's placement when the youth was complaining about that administrator's facility.

The Board also received applications that dealt with level of detention. This means that youth felt they should have been detained in open and not locked (secure) facilities while waiting for court. There is a presumption that youth will be held in open detention; however the provincial director or designate has discretion to hold the youth in a secure facility in certain instances. Usually the facility will re-examine the decision to detain in a secure setting on a weekly basis but sometimes this was not occurring. The Board looked at whether the youth's placement in a particular secure setting was appropriate to meet the youth's needs and made recommendations accordingly.

In the fall of 2009, the Board held an information session for secure facility administrators to explain its mandate and processes. In January 2010, the Board prepared a fact sheet that was distributed to all facilities in Ontario for inclusion in the youth's orientation package.

Based on recommendations made by a committee of Board members and staff, Board processes were revised and implemented in this fiscal year.

As it is important for the public to access information contained in CRB recommendations, the Board will be posting a sample of its recommendations on the Canadian Legal Information Institute's (Canlii) website in the next fiscal year. All identifying information will be removed from the recommendations prior to posting them on the Canlii website. The Board's website will provide a direct link to the Canlii website.

Financial Report

he total operating expenditures for the Board was $2,082,000 in 2009-2010.

MCYS provided approximately $1,990,000 or 90% of the total Board funding. The Ministry of Education transferred approximately $219,000, or 10% of the total funding to offset expenditures associated with school board expulsion applications.

In 2009-2010, the Board's total expenditures decreased by $243,000 (10%) when compared to 2008-2009. This reduction was achieved despite a 27% increase in the volume of applications.

Approximately 57% of the total 2009-2010 expenditures were related to salaries and benefits for staff and full-time Board members compared to 59% in 2008-2009. Salaries and benefits expenditures decreased by $183,000. Over the past two years, the Board has made a concerted effort to reduce costs related to staffing by reorganizing responsibilities for certain positions. If the volume of applications remains stable, it is unlikely that the Board will achieve any further efficiency in staffing costs.

Costs associated with administrative functions were also reduced. Expenditures for supplies and services decreased by $41,000 while expenditures for legal services decreased by $13,000.

In this fiscal year, approximately 36% of the overall expenditures were related to Board member per diems, travel and other adjudicative costs compared to 32% in 2008-2009. Expenditures related to Board member per diems and travel expenses increased by $21,000. The increase can be attributed to the larger number of CRB applications and settlement facilitation conferences. If the volume of applications and Board proceedings continue to rise, it is evident that there will be a corresponding increase in adjudicative costs. Other adjudicative expenditures associated with training, room rentals, security and interpreter services decreased by $27,000, which means that overall adjudicative costs actually decreased by $6,000.

Summary of Funding & Expenditures

	2009-2010 Total (000s)	2008-2009 Total (000s)
Ministry of Children and Youth Services	1,990	2,124
Ministry of Education	219	249
Total Funding	**2,209**	**2,373**
Salaries & Wages	1,063	1,187
Benefits	121	180
Member Per Diems and Travel Expenses	657	636
Supplies and Services (e.g., telephone & communications, consultant services)	134	175
Other Expenses (e.g., hearing room rental, security, interpreter services, training)	89	116
Legal Services	18	31
Total Expenditure	2,082	2,325
Surplus / (Deficit)	**127**	**48**

Note: Funding from the Ministry of Education is provided to the Board through journal entry as expenses are incurred.

Please note that the overall expenditures for supplies and services were reported incorrectly in the 2008-2009 Annual Report. The actual amount is documented in this Annual Report.

A Look to the Future

The Board looks forward to the 2010-2011 fiscal year and will continue to develop and refine its overall administrative and adjudicative functions. The second phase of the case management system will be implemented and work will begin on updating the Board's records retention schedule. It is also hoped that the Board's staffing and financial resources will be stabilized.

With the enactment of the new *Adjudicative Tribunals and Accountability, Governance Appointments Act*, 2009, the Board will review its mandate and mission statement and develop both a public consultation and service standard policy. Current Board member performance appraisals will be revised and a specific performance appraisal for the settlement facilitation program will also be developed.

It is anticipated that there will be amendments to the CFSA and Regulations in the near future. The Board believes it is in a good position to respond to any amendments that may have an impact on the Board's mandate.

In order to address an increase in the volume of applications and the need for more specific expertise, the Board will recommend additional part-time Board members in the coming fiscal year. In-depth training on the legal requirements and issues related to children's aid societies will continue to be provided to both existing and new Board members.

Additionally, the Board will also develop an outreach strategy to ensure that the community and stakeholders have a clear understanding of both the Child and Family Services Review Board and Custody Review Board's mandate. An approach to address the challenges posed by self-represented applicants will be finalized.

The Board is anxiously awaiting the completion of its first on-site hearing and settlement facilitation room at its office in Toronto. This will be a huge step in improving the overall adjudicative environment for both the Board and the parties.

I am confident that in the next fiscal year we will see the results of the hard work that has occurred over the past three years to build and strengthen the foundation of an efficient and modern Board dedicated to delivering high quality adjudication.

Board Members

SUZANNE GILBERT

Chair (October 2006 – October 2011)

Suzanne Gilbert was appointed full-time Chair of the Child and Family Services Review Board/Custody Review Board on October 18, 2006. Ms. Gilbert was reappointed in October 2008 for a three year term.

Ms. Gilbert is a lawyer and member of the Barreau du Quebec. She obtained a «Licence en droit» from the University of Montreal, and a Masters in Health Law from the University of Sherbrooke.

Ms. Gilbert has extensive experience in the practice of law especially as it relates to criminal law, youth protection, adoption matters and administrative law. She was appointed counsel for a large number of children in a Provincial Inquiry Commission that investigated allegations of sexual abuse involving staff in a group home. She has also acquired significant knowledge about public administration at both municipal and provincial levels.

Prior to joining the Board, Ms. Gilbert was Assistant Deputy Chair of the Toronto Office of the Immigration and Refugee Board of Canada (IRB), Refugee Protection Division. During her ten years with the IRB, Ms. Gilbert held positions as Member and Coordinating Member of the Refugee Protection Division.

RUTH ANN SCHEDLICH

Vice Chair (August 2001 – October 2012)

Ruth Ann Schedlich was appointed as a part-time Board member in August 2001 and full-time Vice-Chair of the Child and Family Services Review Board/Custody Review Board in February 2007. Ms. Schedlich served as a trustee on the Durham District School Board for eleven years and as Chair and Vice Chair of the Durham District School Board. She served as acting part-time Chair and Vice Chair of the Child and Family Services Review Board and the Custody Review Board. Ms. Schedlich was a Director on the Ontario Public School Board's Association, The Learning Partnership and the Community Development Council of Ajax/Pickering. She has also worked with primary, junior and intermediate children in treatment classes at Grove School in the Durham District School Board for six years.

JENNIFER SCOTT

Vice Chair (June 2008 – June 2010)

Jennifer Scott was appointed as a full-time Vice-Chair in June 2008. Ms. Scott began her legal career in 1988 practicing corporate commercial litigation. In 1992, she became legal counsel to the Ontario Human Rights Commission and continued in that position until 1994. In 1994, Ms. Scott became the Director of Litigation with the Women's Legal Education and Action Fund (LEAF) and remained with LEAF over the next four years. In 1999, she opened her own law practice, specializing in administrative law. In private practice, Ms. Scott acted for regulatory bodies in professional misconduct cases and represented the Ontario and Canadian Human Rights Commissions before their respective human rights tribunals. She also represented parents and students before education tribunals. Ms. Scott was independent legal counsel to the Ontario Special Education (English) Tribunal from 2004 to 2006 and to the Child and Family Services Review Board from 2004 to May 2008. She has been a part-time member of the Human Rights Tribunal of Ontario since 2006 and a full-time vice-chair with the Child and Family Services Review Board since June 2008.

KEITH BRENNENSTUHL

(June 2009 – June 2011)

Keith Brennenstuhl was appointed as a part-time Board member in June 2009. Mr. Brennenstuhl practiced corporate, entertainment and labour law before his appointment to the Immigration and Refugee Board in 2002. He remained with the Board until 2007, serving as a Senior Adjudicator, Adjudicator Team Leader and acting Assistant Deputy Chair. In 2007, Mr. Brennenstuhl was appointed Vice-Chair to the Ontario Human Rights Tribunal. His community work earned him the Outstanding Canadian Foundation Award and two citations from the Canadian Red Cross for commitment and voluntary service to assist those who are most vulnerable in the community. Mr. Brennenstuhl is a graduate of the Faculty of Law at the University of Windsor and was called to the Ontario Bar in 1976.

DONALD BUTLER

(December 2006 - December 2011)

Donald Butler was appointed as a part-time Board member in December 2006. Mr. Butler was reappointed in December 2008 for a three year term. Mr. Butler has been an Incumbent at The Church of the Nativity since 1991. Prior to this, Mr. Butler was an Assistant Priest at The Church of the Epiphany, a Priest at St. James' Cathedral, Senior Priest at St. John's Cathedral in Antigua and Associate Priest at St. Mary's Church in Belize. His community involvement includes working with Deans of Trinity College's ad hoc Committee on Theological Education of Blacks, The Black Anglican Coordinating Committee, and as the Community Chaplain at Scarborough Centenary Hospital.

BRIAN J. COHEN

(May 2007 – May 2009)

Brian Cohen was appointed as a part-time Board member in May 2007. Mr. Cohen is a Toronto lawyer focusing on health law, patient advocacy, administrative law and civil litigation. He acts for persons with disabilities such as visual and hearing impairment and received the "Young Lawyers' Pro Bono Service Award" from the Canadian Bar Association.

CELIA DENOV

(February 2007 – February 2012)

Celia Denov was appointed as a part-time Board member in February 2007. Ms. Denov was reappointed in February 2009 for a three year term. Ms. Denov has over 33 years of experience working in the fields of social services, health and women's issues. After working for the Ontario Public Service for 25 years, Ms. Denov retired at the level of Assistant Deputy Minister, Ministry of Community and Social Services in 2000. Ms. Denov was formerly a secondary school teacher in Tanzania with CUSO. Ms. Denov is currently working in public policy. She holds a Master of Social Work from the University of Toronto. Ms. Denov is an adjudicator with the Health Professions Appeal and Review Board of Ontario and was cross-appointed to the CFSRB/CRB.

DENYSE DIAZ

(October 2006 - October 2011)

Denyse Diaz was appointed as a part-time Vice-Chair in October 2006 and full-time Vice-Chair of the CFSRB/CRB in February 2007. Ms. Diaz was reappointed for a three year term in October 2008 and has been a part-time member since January 2009. Before joining the Board, Ms. Diaz practiced family law in the Durham Region and frequently appeared on behalf of the Office of the Children's Lawyer in custody/access disputes and child protection matters. Since becoming a part-time Board member, Ms. Diaz is also an associate lawyer in a general law practice in Durham Region.

Ms. Diaz holds a Bachelor of Science from the University of Toronto, a Master of Social Work from Wilfrid Laurier University and a Juris Doctor from Osgoode Hall Law School. Ms. Diaz continues to be an active member of the Ontario Legal Aid Area Committee in Oshawa and the Durham Region Law Association.

PATRICK R. DORAN

(May 2007 – May 2012)

Patrick Doran was appointed as a part-time Board member in May 2007. Mr. Doran obtained a Bachelor of Arts in Philosophy from Ottawa University and a Master of Arts in Counselling and Education from Niagara University. A former Catholic Priest, he has worked with and organized many volunteer community and church groups such as the Food Bank, Friendship Centre, Women's Shelter and Community Centre. Mr. Doran was previously an adjudicator with the Immigration and Refugee Board for nine years. He is an adjudicator with the Social Benefits Tribunal and was cross-appointed to the CFSRB/CRB.

JOHN GATES

(October 2005 – October 2013)

John Gates was appointed as a part-time Board member in October 2005. Mr. Gates retired in 2004 following a 32-year career as a secondary school teacher. Throughout his career, Mr. Gates focused his community involvement in providing extra-curricular activities for youth in the fields of sports and recreation. He coached at both the school and community level and served on the Kincardine Recreation Board for four years, and the Ontario Municipal Recreation Association Board of Directors for 10 years where he earned the Lieutenant Governor's coveted Gold Corps d'Elit Award. Mr. Gates has instructed for the National Coaching Certification Program throughout southwestern Ontario, providing solid footing for new coaches in the basics of sportsmanship, fair play and equal opportunity for all participants. Since retirement Mr. Gates has assisted in a leadership role with the executive of the Kincardine Scottish Festival and with fund-raising efforts for the Women's House Serving Bruce & Grey.

HEATHER GIBBS

(July 2007 – July 2012)

Heather Gibbs was appointed as a part-time Board member in July 2007. Ms. Gibbs is a lawyer specializing in the area of administrative law. In addition to her appointment as a part-time member with the Child and Family Services Review Board and Custody Review Board, Ms. Gibbs has been a member of the Environmental Review Tribunal since September 2006. While a member of the Immigration and Refugee Board of Canada from 1998 to 2006, Ms. Gibbs participated on various committees, including developing policy with respect to vulnerable claimants, and member professional development. Prior to her tribunal work, Ms. Gibbs held various positions at the United Nations High Commissioner for Refugees in Canada and Africa, (1994-1998) and conducted training on gender-related persecution and child refugees. She practiced law (1993-1994), and conducted policy and legal research (1992-1993) for the Human Rights Research and Education Centre. Ms. Gibbs was an intern at the Inter-American Legal Services Institute in Bogota, Colombia, where she worked with Colombian lawyers in research and public legal education. She holds a Bachelor of Arts from the University of Western Ontario and a Bachelor of Laws from the University of Ottawa.

GAIL GONDA

(May 2007 – May 2012)

Gail Gonda was appointed as a part-time Board member in May 2007. Ms. Gonda recently retired from the Ontario Public Service following 20 years of service. From 1995 until 2006 she was the Administrator at Thistletown Regional Centre, a children's mental health centre directly operated by the Ministry of Children and Youth Services. She has also been active as a volunteer in a range of activities in support of sexual minorities. Ms. Gonda holds a Doctor of Philosophy in psychology and has worked in the field of children's mental health since 1980.

AIDA GRAFF

(June 2007 – June 2012)

Aida Graff was appointed as a part-time Board member in June 2007. Ms. Graff was Dean of Women at Victoria College, the University of Toronto, where she also taught English Literature. As a community activist, Ms. Graff was involved with equity issues and presided over the Coalition for Visible Minority Women whose mandate was to fight racism and inequity. She was also the president of the Board of the Arab Community Centre of Toronto, a social service agency.

Ms. Graff was appointed to the Ontario Human Rights Commission in 1994, and served on that Board until 1998. In 1998 she was an appointed Board member to the Immigration and Refugee Board, and served on it until 2006.

DAVID GRIFFITHS

(April 2006 – April 2009)

David Griffiths was appointed as a part-time Board member in April 2006. Mr. Griffiths holds a Bachelor of Science in Industrial and Manufacturing Systems Engineering and is currently a Program Manager with Symcor Inc. He is pursuing a part-time Master of Business Adminstration at the Schulich School of Business. Mr. Griffiths is a community pioneer who has been actively involved in community development initiatives for over 16 years. He is the former President of the Jamaican Canadian Association and is currently a member of the Toronto City Summit Alliance Steering Committee and Board member of Operation Black Vote Canada.

HEATHER HUNTER

(May 2008 – May 2010)

Heather Hunter was appointed as a part-time Board member in May 2008. For more than four decades Heather Hunter has been active as a successful consultant, CEO and Executive Director in the social service and health care environments. Her focus has been in the children's mental health, youth justice and developmental sectors. Ms. Hunter has extensive experience as well with the Province in the roles of Program Supervisor, Manager in Special Needs/Services and Policy Anaylst. Ms. Hunter is a graduate of McMaster University.

LORNA KING

(April 2006 – April 2014)

Lorna King was appointed as a part-time Board member in April 2006. Ms. King has held various sales and management positions in the hotel industry for 25 years. Ms. King is an active member of the community, has volunteered extensively and is currently the President of P.A.C.E. (Canada).

ALINA LAZOR

(May 2008 – May 2010)

Dr. Alina Lazor was appointed as a part-time Board member in May 2008. Dr. Lazor is a child psychiatrist with over 35 years experience dealing with children/adolescents with complex mental health problems and their families. For 27 years she worked on the Adolescent Unit at the Whitby Mental Health Centre of which 18 years were as the Director of Adolescent Services. Dr. Lazor is a strong advocate for children with mental health problems and their families. In her semi-retirement, she focuses on Psychoeducation relating to mental health issues and she provides consultation, coaching, training, and workshops for mental health providers and professionals dealing with problematic children and their families.

RICHARD LINLEY

(December 2006 – December 2011)

Richard Linley was appointed as a part-time Board member in December 2006. Mr. Linley was reappointed in December 2008 for a three year term. Mr. Linley was called to the Ontario Bar in 1975 and since then, has practiced Criminal and Family Law, Real Estate, Wills and Trusts, and Private Corporation. Mr. Linley has served as a Municipal Councillor and as a Board member of the Board of Health, the Children's Aid Society and the Public Library. He holds a Bachelor of Arts from the University of Western Ontario and a Bachelor of Laws from the University of British Columbia.

GREGORY PRICE

(May 2007 – May 2012)

Gregory Price was appointed as a part-time Board member in May 2007. Mr. Price was called to the Ontario Bar in 1978 and has engaged in a general law practice since then with considerable time devoted to Family Law and Alternative Dispute Resolution as a mediator and arbitrator.

He has experience working in the adoption and child protection fields and has represented varied litigants at trial and on appeal. He holds a Bachelor of Arts from York University and a Juris Doctor from Osgoode Hall Law School, York University.

NYCOLE ROY

(May 2007 – May 2012)

Nycole Roy was appointed as a part-time Board member in May 2007. Ms. Roy obtained a Bachelor of Arts in Social Services from the University of Quebec in Hull and a Master of Arts Degree in Gestalt from Boston University. Before joining the Child and Family Services Review Board and the Custody Review Board in 2007, she worked as a Social Worker for the Youth Protection Sector in Hull, Quebec. In 1992, she accepted a position in Ottawa as a Program Development Adviser with Health Canada under the Family Violence Prevention Initiative. In 1994, she was appointed as a Board member with the Immigration and Refugee Board (IRB) in Montréal. In 1996, she was promoted to Coordinator within the IRB. In 2000, she was transferred to the Ottawa District office of the IRB.

FRANCES SANDERSON

(December 2006 – December 2011)

Frances Sanderson was appointed as a part-time Board member in December 2006. Ms. Sanderson was reappointed in December 2008 for a three year term. Ms. Sanderson is currently the Executive Director at Nishnawbe Homes Inc. Prior to this, Ms. Sanderson was Vice President of Publicity and Advertising at Bowlerama Limited. Her community involvement includes serving on numerous boards and committees, including the Toronto Aboriginal Affairs Committee, the George Brown Aboriginal Education Council, the Toronto Police Service Aboriginal Consultative Committee, the Chief's Advisory Committee and Charles O. Bick College.

SHEENA SCOTT

(May 2008 – May 2010)

Sheena Scott was appointed as a part-time Board member in May 2008. Ms. Scott was Counsel for the Ontario Human Rights Commission for approximately a year and a half, following her five years as the Director of Legal Services at the African Canadian Legal Clinic. Ms. Scott also did policy and advocacy work for the Office of Child and Family Services Advocacy and was a Legal Consultant with UNICEF Canada. Ms. Scott spent 12 years as legal counsel for children and youth including four years as the Executive Director of Justice for Children and Youth. She received her Bachelor of Laws (LL.B.) from Dalhousie Law Society and was called to the Ontario Bar in 1988.

WENDELL WHITE

(March 1999 – September 2012)

Wendell White was appointed as a part-time Board member in March 1999. Mr. White began his career as an elementary school teacher in Simcoe County followed by five years in the Northwest Territories (NWT). While teaching in the NWT, Mr. White was recognized by the Canadian Teachers' Federation for the creation of a Dene cultural program. The Government of the NWT recognized his educational work with a Dedicated Service Award. Mr. White has been the Director of Camping and Outdoor Education with a residential camping organization since 1981. He is the past chair of Loyalist College and in 2004 received his Masters of Law degree from Osgoode Hall Law School, York University, specializing in Alternative Dispute Resolution.

MARY WONG

(May 2007 – May 2012)

Mary Wong was appointed as a part-time Board member in May 2007. Ms. Wong retired from a 30-year teaching career and has held a position as Head of Co-operative Education. She holds a Bachelor of Arts Degree and a Master of Education Degree from the University of Toronto. Ms. Wong has worked extensively in extra-curricular activities in the area of student leadership and race relations.

Appendix

The following information provides a description of the various types of CFSRB and CRB applications under each *Act*:

CHILD AND FAMILY SERVICES REVIEW BOARD (CFSRB)

Under the *Child and Family Services Act*, the Board may review:

A children's aid society decision to remove a Crown ward, where the child has resided continuously with the foster parent for two years or more pursuant to s.61;

A decision of a children's aid society to refuse an application to adopt a particular child or a decision of a society or licensee to remove a child from an adoption placement pursuant to s.144.

Under section 61 of the Act, a foster parent may apply to the CFSRB to request a review of a proposed decision of a children's aid society to remove a Crown ward, who has lived with the foster parent continuously for two years. The child or children subject to the proposed decision of the society remain(s) with the foster family during the proceedings, unless there is a risk that the child is likely to suffer harm.

Under section 144 of the Act, an individual may request a review of a children's aid society decision to refuse an application to adopt a particular child made by a foster parent or other person; or a children's aid society or adoption licensee decision to remove a child who has been placed with a person for adoption.

Under sections 61 and 144, applicants have 10 days after they have received written notice of the society's or licensee's decision to apply to the Board for a review of the decision. Hearings are conducted by a panel of three Board members. In order to understand the decision of the society, the Board hears the society's evidence first followed by the applicant's evidence in support of the application. The Act provides that if the child is native, a representative of the Band may be present at the hearing as a party.

The Board, after considering all of the evidence, determines which action is in the best interest of the child and based on its determination, rescinds or confirms the decision of the society. The Board's reasons for its decision are issued within 10 days of the completion of the hearing. The legislative time frames for both sections 61 and 144 are outlined on page 44.

Society notifies the person
10 Days
Applicant applies in writing to the CFSRB for a review after receiving the society's notice
7 Days
CFSRB reviews the application and advises of its eligibility
20 Days
CFSRB shall conduct a hearing to review the society's decision
10 Days
The CFSRB provides a decision in writing to the applicant, the society and the Band, when applicable. The Board's decision will confirm or rescind the original children's aid society's decision

Certain client complaints related to children's aid societies pursuant to s.68 and s.68.1.

The Act and the regulations have modified the internal complaints process of children's aid societies in Ontario. The new complaint process is now standardized throughout the province. Under the new regulations, each children's aid society shall establish an Internal Complaint Review Panel (ICRP) that will hear a complaint and issue a "written summary of the meeting" within 14 days of the meeting.

The Board has authority to review the ICRP process. It also has the authority to hear a complaint made directly to the Board or before the complaint process of the ICRP is completed.

An application can be brought to the Board if the individual believes the children's aid society:

1. Has refused to proceed with his or her complaint;
2. Has failed to respond to his or her complaint within the timeframes required by regulation;
3. Has failed to comply with the complaint review procedure or with any other procedural requirement under the *CFSA* relating to the review of complaints;
4. Has failed to comply with clause 2(2)(a) of the *CFSA* which states: "Service providers shall ensure that children and their parents have an opportunity where appropriate to be heard and represented when decisions affecting their interests are made and to be heard when they have concerns about the services they are receiving";

5. Has failed to provide reasons for a decision that affects his or her interests;

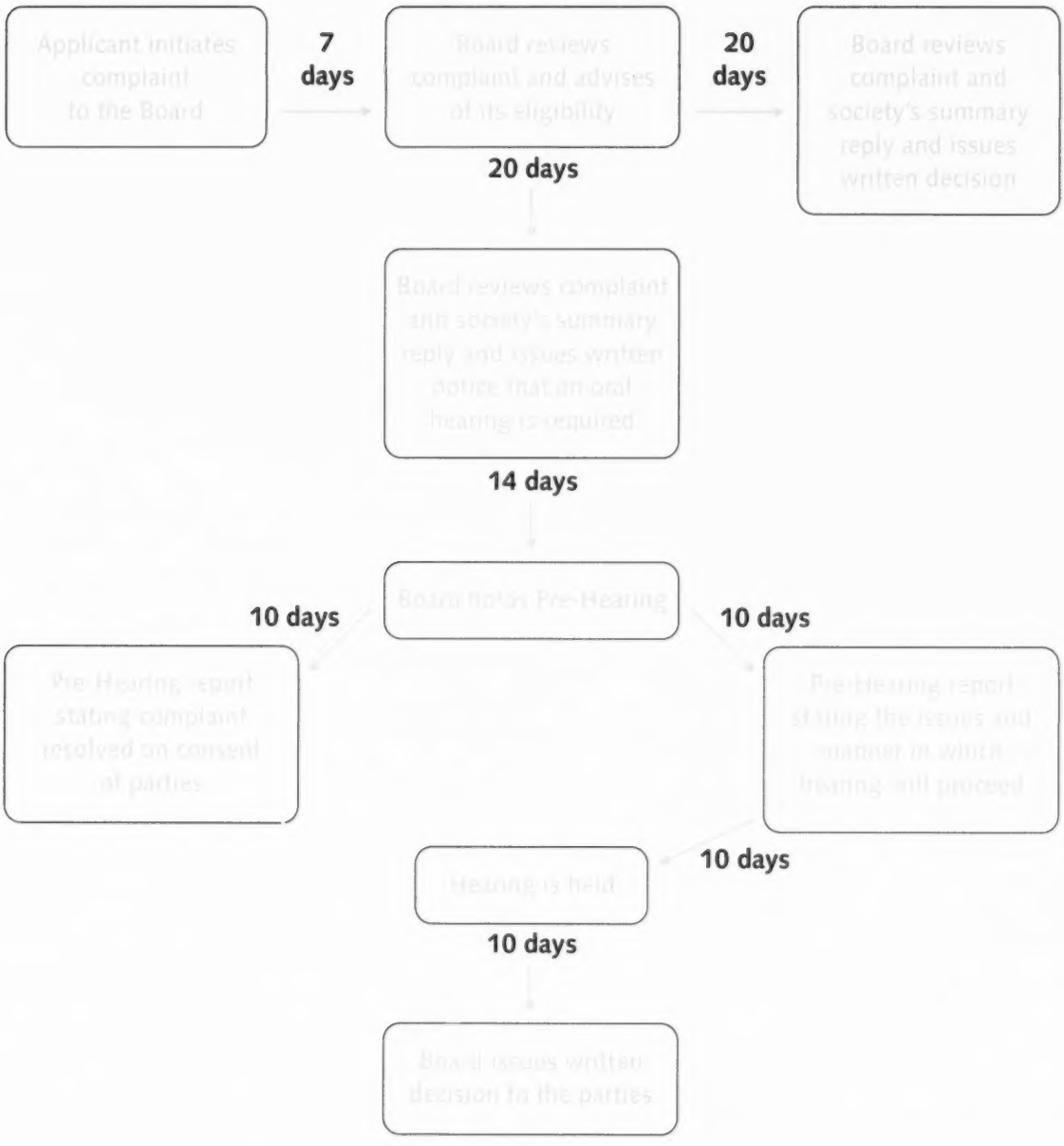
6. Has inaccurately recorded something on his or her file or record and this has not been resolved through the children's aid society's internal complaint review procedure.

Under the legislative amendments for sections 68 and 68.1 applications, the Board is required to make an eligibility decision within seven days of receipt of the application. Considering the very short timeframe in which to make the eligibility decision, the Board determined that eligibility would be granted when it appears that the allegations fall within the six enumerated grounds. Once eligibility has been established, the Board will proceed to hear the application, including any jurisdictional arguments that might be made.

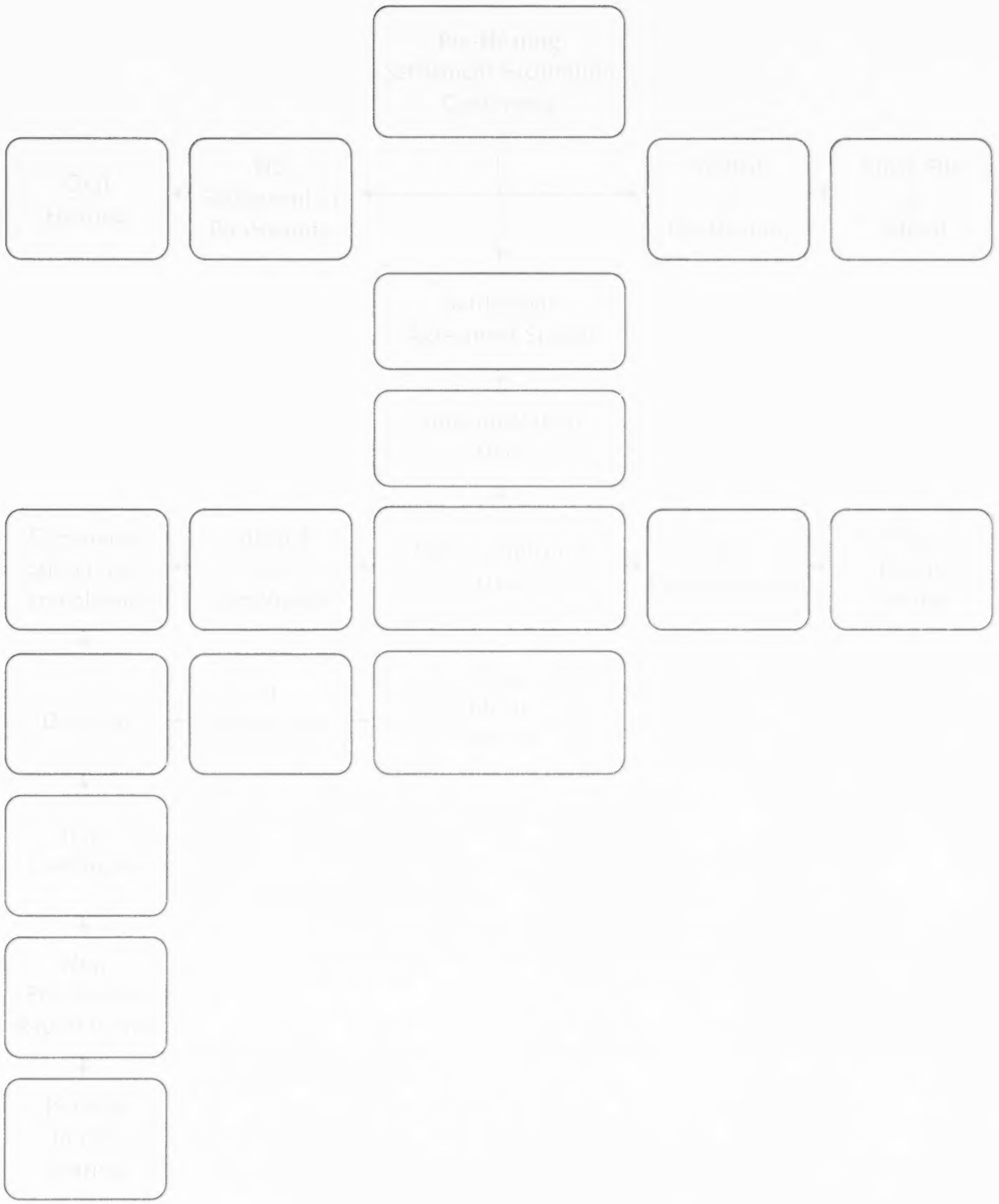
The Board does not have jurisdiction to hear an application when the matters raised by the applicant have been decided by the Court or are before the Court, and/or when the transitional provision applies. The *Act* provides that when a complaint has been made before the date of the proclamation of the *Act*, the old internal complaint review process applies. In the old complaint process there was no appeal or review of the society decision.

Hearings are conducted by a panel of three Board members. Pre-hearings are required for all section 68 and 68.1 applications. At this stage, part or all of the issues may be resolved. Motions on jurisdiction are heard at the beginning of the hearing by the panel assigned to the file. If the Board determines that it has jurisdiction, the application proceeds to a hearing on the merits. In the event that the Board finds that it has no jurisdiction, the application is dismissed.

THE ACT AND THE REGULATIONS CREATED THE FOLLOWING STEPS FOR SECTION 68 & 68.1:


Applicant initiates complaint to the Board
7 days
Board reviews complaint and advises of its eligibility
20 days
Board reviews complaint and society's summary reply and issues written decision
20 days
Board reviews complaint and society's summary reply and issues written notice that an oral hearing is required
14 days
Board holds Pre-Hearing
10 days
Pre-Hearing report stating complaint resolved on consent of parties
10 days
Pre-Hearing report stating the issues and manner in which hearing will proceed
10 days
Hearing is held
10 days
Board issues written decision to the parties

SETTLEMENT FACILITATION PROCEDURE



An emergency admission of a child to a secure treatment program pursuant to s.124 (ESTA).

When a child is admitted to a secure treatment facility for a period of up to 30 days pursuant to section 124 of the *CFSA* the administrator of the facility is required to notify the Child Advocate's Office and the Office of the Children's Lawyer of the admission. The Child Advocate's Office is required to ensure that the child is made aware of his or her right to apply to the Board to review the admission. If an application is submitted to the Board, the Office of the Children's Lawyer ensures that the child has legal counsel.

Any person, including the child, may make an application for an order to release the child from the secure treatment program. Counsel appointed to represent the child generally submits the application to the Board. Upon receipt of the application, the Board is required to hold a hearing within five calendar days, including weekends and statutory holidays.

A panel of three Board members will hear the application. The Board may hear testimony from the child, medical and social service professionals, facility staff, family members and any other relevant witnesses.

In order to keep a child in a secure treatment program, the Board members must be satisfied that:

1. The child has a mental disorder;
2. The child has, as a result of the mental disorder, caused, attempted to cause or by words or conduct made a substantial threat to cause serious bodily harm to himself, herself or others;
3. The secure treatment program would be effective to prevent the child from causing or attempting to cause serious bodily harm to himself, herself or others;
4. Treatment appropriate for the child's mental disorder is available at the place of secure treatment to which the application relates; and
5. No less restrictive method of providing treatment appropriate for the child's mental disorder is appropriate in the circumstances.

At the conclusion of the hearing, the Board issues an order. Reasons for its decision are provided after the hearing. The Board's decisions are binding.

A Review of a Residential Placement pursuant to s.36.

Where a child who is 12 years of age or older and has had his/her placement reviewed by an advisory committee, the child may ask the Board for a review of his or her placement when he or she is dissatisfied with the advisory committee's recommendations, or the committee's recommendations were not followed.

Three Board members will conduct the hearing. The Board is required to inform the child within 10 days of receiving an application whether or not it intends to hold a hearing.

The Board may:

- Order that the child be transferred to another residential placement if the Board is satisfied that the other residential placement is available;
- Order the child to be discharged from the residential placement;
- Confirm the existing placement;
- Make recommendations about a placement.

A Director's decision to refuse to approve a proposed adoption placement, or to impose a term or condition on an approval, pursuant to s.142.

As the Board did not receive applications under this section, Board processes and procedures are not included.

Under the *Education Act*, the Board hears appeals of:

Expulsion of students by school boards pursuant to s.311.7.

The CFSRB hears appeals of school board imposed expulsions. The following persons are entitled to appeal:

- The student's parent or guardian, if the student is a minor;
- The student, if the student is not a minor;
- The student, if the student is 16 or 17 years old and has withdrawn from parental control.

The appellants are required to apply to the CFSRB in writing within 30 days from receipt of the expulsion decision. Three Board members hear the appeal. The CFSRB is required to convene a hearing within 30 days of receiving written notice of appeal.

After hearing an appeal from a decision of a school board, the CFSRB may:

- Confirm the school board's decision;
- Overturn the expulsion decision and reinstate the pupil to the school, if the school board's decision was to expel the pupil from his or her school only;
- If the school board's decision was to expel the pupil from all schools of the school board:
  - **(i)** change the expulsion decision to an expulsion from the pupil's school only; or
  - **(ii)** overturn the expulsion and reinstate the pupil to his or her school;
- Order any record of the expulsion be removed or amended.

Once the hearing is completed the CFSRB is required to issue a decision within 10 days after a hearing.

Written reasons for the decision will be issued within 30 days of the hearing.

Under the *Intercountry Adoption Act*, the Board may review:

A Director's refusal to approve a person as eligible and suitable to adopt for the purpose of an intercountry adoption or the attachment of conditions to a Director's approval pursuant to s.5.

A Director's refusal to approve a proposed intercountry adoption or the attachment of conditions to a Director's approval pursuant to s.6.

As the Board did not receive any applications under these sections, Board processes and procedures are not included.

CUSTODY REVIEW BOARD (CRB)

Under s.97(1) of the *Child and Family Services Act*, the Board may review:

A particular placement where a young person is being held or to which the young person has been transferred;

A Provincial Director's refusal to authorize the young person's temporary release or reintegration leave;

The young person's transfer from a place of open custody to a place of secure custody.

The CRB provides an independent review of placement decisions made by Provincial Directors for young persons in places of custody and detention.

When a young person enters a custody facility, a probation officer, youth worker, or staff member explains his or her rights to the youth, including the right to a review of a decision that deals with their custody placement. A young person can apply to the Board within 30 days of a Provincial Director's decision to place or transfer him or her to a facility or to refuse a reintegration leave request.

An application is completed by a Board case coordinator in a telephone conversation with the young person. Based on the information provided, the Board determines if an oral hearing is required or if the application can be assigned to a Board member for a review that is conducted through telephone interviews. The Board reviews all relevant material including the issues identified by the young person, while considering information and facts from facility staff, probation officers, advocates, family members or others as appropriate. After reviewing all relevant information, the Board makes a recommendation to the responsible Provincial Director. The Board's recommendations are not binding.